

Add Chapter 224 ARTICLE XXII as follows:

ARTICLE XXII
Residential Floor Area Ratio Law

§ 224-134. Purpose and applicability

- A. The unique character of residential neighborhoods in Irvington rests on the diversity in the style and design of houses as well as the general uniformity in the scale of houses located on similarly sized lots in neighborhoods throughout the community. The recent trend of tearing down existing houses and replacing them with larger houses or building large additions to existing houses threatens the appearance and impacts upon the health, safety, welfare, and quality of life in Irvington.
- B. This article establishes a maximum floor area ratio (FAR) for all homes in Irvington. It responds both to the desire of residents to enlarge their homes to meet the needs of their families and to preserve neighborhood character by requiring houses to appear to be of the same or similar scale to others in the neighborhood. It is the intent of this article to encourage both new houses and expansions or alterations to existing houses to have a consistent scale with the nearby residences on both sides of the street. The FAR provisions are intended to be applied together with other provisions of the Village Zoning Code, including the provisions for lot coverage and resource protection.

§ 224-135. Definitions

Words used in this article shall have the meanings indicated in Chapter 224, Zoning, and, in addition thereto, the following terms shall have the meanings indicated:

DECK - An outdoor platform attached to the principal structure of a building and built above the natural grade. A deck does not have a roof and is exposed to the elements.

GROSS FLOOR AREA - The sum of the gross area of all floors of a residence, measured to the exterior of the outside walls. In calculating the gross floor area of houses for the purpose of calculating floor area ratio (FAR), all floor areas of each floor of all principal and all accessory structures on the lot shall be included, except for the portion which may be exempted as provided in § 224-137. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted twice.

HEIGHT, FLOOR-TO-CEILING - The distance between the finished floor and the finished ceiling of an interior space. The distance shall be equal to the length of a theoretical line drawn from the floor to a point of the highest portion of the ceiling directly above it and is perpendicular to the horizontal plane of the floor.

OUT-OF-SCALE - With regard to a building or any part thereof, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the other buildings in the surrounding neighborhood (particularly, but not limited to, the buildings on contiguous tax lots) and/or relative to the size of the tax lot upon which the building is situated; also, with regard to any one part of a building (or an addition to a preexisting building), the condition of being or appearing to be disproportionately large, bulky, or massive relative to any other part of the same building (or, in the case of an addition, relative to the preexisting building); with regard to an accessory structure, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the principal structure, the other buildings in the surrounding neighborhood, and/or the size of the tax lot upon which the accessory structure is situated.

PORCH, ENCLOSED - A structure attached to a building, with a floor, roof, and structural supports, and permanently, seasonally, or temporarily enclosed with solid materials, such as glass or lexan (a clear, durable, hard plastic material). Screens, curtains, or latticework made of wire-mesh, cloth, paper, strips of wood or metal, or other similar material, shall not be considered “solid” for the purpose of this definition. A porch does not need to be heated or insulated to be considered “enclosed.”

PORCH, UNENCLOSED - A structure attached to a building, which has a floor, a roof, and structural supports, but not permanently, seasonally, or temporarily enclosed with solid materials such as glass or lexan (a clear, durable, hard plastic material).

§ 224-136. Maximum floor area ratio

As illustrated below, the maximum permitted floor area ratio (FAR) and resulting maximum residential floor area for houses shall be as follows:

| <u>Lot Size (sf)</u> | <u>Maximum FAR</u> | <u>Residential Floor Area (sq ft)</u> |
|-----------------------------|---------------------------|--|
| 5,000* | 0.43 | 2,150 |
| 6,000 | 0.39 | 2,340 |
| 7,000 | 0.36 | 2,520 |
| 8,000 | 0.33 | 2,640 |
| 9,000 | 0.3 | 2,700 |
| 10,000 | 0.28 | 2,800 |
| 11,000 | 0.2725 | 2,998 |
| 12,000 | 0.265 | 3,180 |
| 13,000 | 0.2575 | 3,348 |
| 14,000 | 0.25 | 3,500 |
| 15,000 | 0.2425 | 3,638 |
| 16,000 | 0.235 | 3,760 |
| 17,000 | 0.2275 | 3,868 |
| 18,000 | 0.22 | 3,960 |
| 19,000 | 0.2125 | 4,038 |
| 20,000 | 0.2 | 4,000 |
| 21,000 | 0.198 | 4,158 |

* For lots 5,000 square feet and under, the maximum FAR shall be 0.43.

| | | |
|--------|--------|-------|
| 22,000 | 0.196 | 4,312 |
| 23,000 | 0.194 | 4,462 |
| 24,000 | 0.192 | 4,608 |
| 25,000 | 0.19 | 4,750 |
| 26,000 | 0.188 | 4,888 |
| 27,000 | 0.186 | 5,022 |
| 28,000 | 0.184 | 5,152 |
| 29,000 | 0.182 | 5,278 |
| 30,000 | 0.18 | 5,400 |
| 31,000 | 0.178 | 5,518 |
| 32,000 | 0.176 | 5,632 |
| 33,000 | 0.174 | 5,742 |
| 34,000 | 0.172 | 5,848 |
| 35,000 | 0.17 | 5,950 |
| 36,000 | 0.168 | 6,048 |
| 37,000 | 0.166 | 6,142 |
| 38,000 | 0.164 | 6,232 |
| 39,000 | 0.162 | 6,318 |
| 40,000 | 0.1625 | 6,500 |
| 41,000 | 0.1605 | 6,581 |
| 42,000 | 0.1585 | 6,657 |
| 43,000 | 0.1565 | 6,730 |
| 44,000 | 0.1545 | 6,798 |
| 45,000 | 0.1525 | 6,863 |
| 46,000 | 0.1505 | 6,923 |
| 47,000 | 0.1485 | 6,980 |
| 48,000 | 0.1465 | 7,032 |
| 49,000 | 0.1445 | 7,081 |
| 50,000 | 0.1425 | 7,125 |
| 51,000 | 0.1405 | 7,166 |
| 52,000 | 0.1385 | 7,202 |
| 53,000 | 0.1365 | 7,235 |
| 54,000 | 0.1345 | 7,263 |
| 55,000 | 0.1325 | 7,288 |
| 56,000 | 0.1305 | 7,308 |
| 57,000 | 0.1285 | 7,325 |
| 58,000 | 0.1265 | 7,337 |
| 59,000 | 0.1245 | 7,346 |
| 60,000 | 0.125 | 7,500 |
| 61,000 | 0.125 | 7,625 |
| 62,000 | 0.125 | 7,750 |
| 63,000 | 0.125 | 7,875 |
| 64,000 | 0.125 | 8,000 |
| 65,000 | 0.125 | 8,125 |
| 66,000 | 0.125 | 8,250 |
| 67,000 | 0.125 | 8,375 |
| 68,000 | 0.125 | 8,500 |
| 69,000 | 0.125 | 8,625 |
| 70,000 | 0.125 | 8,750 |
| 71,000 | 0.125 | 8,875 |
| 72,000 | 0.125 | 9,000 |

| | | |
|------------------|-------|--------|
| 73,000 | 0.125 | 9,125 |
| 74,000 | 0.125 | 9,250 |
| 75,000 | 0.125 | 9,375 |
| 76,000 | 0.125 | 9,500 |
| 77,000 | 0.125 | 9,625 |
| 78,000 | 0.125 | 9,750 |
| 79,000 | 0.125 | 9,875 |
| 80,000 and above | 0.125 | 10,000 |

Any house which exceeds 10,000 square feet of gross floor area shall be required to obtain a variance from the Zoning Board of Appeals.

§ 224-137. Exemptions from the calculation of floor area ratio in Residential Zones

A. Decks, patios, unenclosed porches and porticoes

- (1) All space in unroofed structures such as decks and patios shall be excluded from the calculation of FAR.
- (2) All space in unenclosed porches and porticoes shall be excluded from the calculation of FAR. For the purpose of FAR calculation, “unenclosed” shall mean those porches or porticoes that are open and not permanently, seasonally or temporarily enclosed.

B. Basements, cellars and basement garages

Where the exposed exterior wall or walls of basement, cellar or basement garage(s) facing the front yard(s) is less than three feet (measured from the lower of existing grade prior to construction or grade after construction to the bottom of the floor above the basement) the proportionate share¹ of the basement, cellar or basement garage(s) shall be excluded from the calculation of FAR. All the remaining portions of the floor area of basements, cellars or basement garages, where the height (as defined above) of the exterior exposed wall or walls facing the front yard is three feet or more, shall be included in the FAR.

C. Attics

Fifty percent of the gross floor area of any attic shall be excluded from the calculation of FAR.

D. Garages

- (1) On lots measuring 9,999 square feet or less, the lesser of 250 square feet or the total floor area contained within one-story garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR. On lots measuring 10,000 square feet or more, the lesser of 400 square feet or the total floor area contained within one-story

¹ The proportionate share is defined as the relationship between that portion of the basement, cellar, or basement garage(s) with an exposed exterior wall of less than three feet to the entire length to such exterior wall.

garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR. In those instances where an additional story is provided above a garage, whether detached or attached, such floor area or the garage floor area, up to the limits set forth herein as defined by lot size, shall be excluded from the calculation of FAR.

- (2) Notwithstanding the above, this section shall not apply to basement garages.

§ 224-138. Procedures for floor area ratio review of houses

- A. Building permit review. Upon receipt of a building permit application for a house, or prior to the submission of an application for site development plan approval, or waiver of site development plan approval, the Building Inspector shall determine whether granting the building permit or consideration of the application for site development plan approval or waiver would result in a building FAR in excess of the maximum FAR prescribed under § 224-136.
- B. Houses at or below the maximum FAR. If an application does not exceed the maximum FAR, the Building Department shall proceed with the building permit application and or process the application for site development plan approval or waiver of site development plan approval for consideration by the Planning Board.
- C. Residences above the maximum FAR. Applications for building permits, site development plan approval, or waiver of site development plan approval for residences whose total floor area, as of June 1, 2003, exceeds or is seeking approval for an application or permit which will exceed the maximum permitted FAR, shall be required to seek a variance from the Zoning Board of Appeals in accordance with Article XIX of the Irvington Zoning Code. In considering the variance application, the Zoning Board of Appeals shall consider, among other items, any design guidelines set forth in the Irvington Code. The Zoning Board of Appeals may also, at its discretion, refer the application to the Board of Architectural Review for an advisory opinion. Any application for a variance for FAR for a residence shall require the submission of the following additional materials, if available, in addition to those required for the building permit:
 - (1) Elevations (photos, drawings, scale) of the houses on all sides of the subject house, including across the street;
 - (2) Photographs of neighboring houses, structures, and yards within 200 feet on any side of the subject house including across the street; and
 - (3) Floor area ratios of neighboring houses on lots within 200 feet on either side of the subject house.
 - (4) The applicant shall also provide written or verbal testimony addressing the proofs required for variances.

§ 224-139. Effective date

This article shall apply to any application for a building permit that has not been submitted to the Building Department for consideration or processing, as of June 1, 2003.

For properties which have received final subdivision approval, this article shall not apply to any application for a lot which has been submitted for consideration or processing of final site development plan approval or waiver, as of June 1, 2003. All applications for limited or final site development plan approval, waiver of site development plan approval, or variances submitted subsequent to June 1, 2003, shall be subject to this article.